Supreme Court, U.S.
FILED

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No._____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1998

ALICE R. LANE, Conservator of the Estate of
ELIZABETH G. JAMERSON, Conservatee
Petitioner
vs.
THE CITY AND COUNTY OF SAN FRANCISCO,
a general municipal corporation
by and thorough its officers and staff, including
Willie L. Brown, Mayor; Louise Renne, City Attorney, et.al.
Respondents

On Petition For Writ of Certiorari To The
Supreme Court of the United States

PETITION FOR WRIT OF CERTIORARI

ALICE R. LANE, In Pro Per,
Petitioner
3200 Harrison Street
San Francisco, CA 94110
(415) 821-7600

29 pp

QUESTIONS PRESENTED

1.) Is eminent domain, or the threat thereof, illegal and unconstitutional when targeted against a distinct racial group in a distinct neighborhood area for the covert yet manifest purpose of dispossessing the residents of a distinct racial group and distinct neighborhood area of their private property and business assets?

2.) Should the standard of 'close and strict scrutiny' required by the Supreme Court for racially explicit public programs also apply to racially implicit public programs where local government has covertly yet manifestly targeted residents of a distinct racial group in a distinct neighborhood area for dispossession of their private property and business assets through eminent domain, or the threat thereof?

3.) Is there compelling evidence of local government cover-up and denial of due process when a local government has covertly carried out a program of racial targeting that has been successful in a *'taking'* through eminent domain the private properties and businesses of all residents, except a few, of a single racial group inhabiting a distinct neighborhood area; when the only resident from the distinct racial group and neighborhood area to actively use all available legal means to protest and prevent public seizure of her private properties is repeatedly and consistently denied the opportunity to present factual evidence and arguments demonstrating her side of the case; and when the facilities of appeal and redress denied the affected resident, from local administrative avenues of appeal to the State Superior and Supreme Courts, all are located in or near the area of racial targeting and all have benefitted, directly or indirectly, from the program of racial targeting?

4.) Should a property owner from an area where racial targeting has been carried out be fairly compensated through inverse condemnation for economic losses

incurred when local government has used its code enforcement powers to stalemate and prevent for close to ten years the owner's efforts to upgrade and bring her properties into productive economic use and when during the same period the local government has practiced a web of deception that has caused the affected property owner prolonged and relentless mental confusion, distress, and suffering?

A.) Whether the Supreme Court of the State of California, violated Petitioner's Right to Due Process of Law when, without comment, it refused to hear the Petitioner's Petition for Review as a Defendant against the City and County of San Francisco, thereby forever preventing the Petitioner from having opportunity to present factual evidence in a neutral legal forum on systematic effort by the City and County of San Francisco to dispossess the Petitioner of her private properties as part of a general campaign to dispossess Black American property owners of their private properties in the Western Addition Area of San Francisco, California.

B.) Can a private property owner be denied by procedural manipulation and legal domain by opposing counsel (City Attorney in case at Bar).

C.) Supreme Court of California made significant Judicial error in being deceived by the opposing council (Certiorari should issue).

TABLE OF CONTENTS

QUESTION PRESENTED	ii
TABLE OF AUTHORITIES & US CONSTITUTION & GIVENS "Q" Federal Practice	iv
OPINIONS BELOW	1
PARTIES TO THE PROCEEDINGS	1
JURISDICTION	2
CONSTITUTIONAL PROVISIONS	2
INTRODUCTION	3
STATEMENT OF THE FACTS	4
BACKGROUND FACTS	4
PERTINENT FACTS	6
REASONS FOR GRANTING WRIT	9
CONCLUSION	10
APPENDIX A	12
APPENDIX B	14
APPENDIX C	~~23~~ 24
APPENDIX D	~~24~~ 25

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OPINIONS BELOW

The unreported decision of the California Superior Court, City and County of San Francisco, granting Receiver's motion for $14,000 paying terminating a receivership filed on January 24, 1995 appears as **Appendix A**; The unreported decision of the California Court of Appeals, First Appellate District, Division Three, filed December 12, 1997 appears as **Appendix B**; The unreported decision of the California Court of Appeals, First Appellate District, Division Three, filed January 9, 1998 appears as **Appendix C**; The unreported opinion of the California Supreme Court refusing to hear the Plaintiff's Petition for Review, Filed March 11, 1998, appears as **Appendix D.**

PARTIES TO THE PROCEEDINGS

The parties to this proceeding are ALICE R. LANE, Conservator of the Estate of ELIZABETH G. JAMERSON, Conservatee, and CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, by and through its officers and staff, MAYOR WILLIE L. BROWN, CITY ATTORNEY LOUISE RENNE, and DOES 1-100, inclusive.

JURISDICTION

The jurisdiction of the Court is invoked under Rule 10(b) & 13 of the Rules of the U.S. Supreme Court. Jurisdiction is proper under this Court's Rule 10(b) "a state court of last resort has decided an important federal question (Due Process in Instant case) is a way that conflicts with the decision... of a US Court of appeals" S.CT. Rule 10(b).

Jurisdiction is also proper under 42 USCS 1983 which allows (requires) this Court to protect, remedy and enforce individual rights arising under the US Constitution XIV. These rights include those rights protected by the due process, privileges, immunities and the Equal Protection clauses thereof.

CONSTITUTIONAL PROVISION

The Fifth and Fourteenth Amendment provide in pertinent part: "No person shall ... be deprived of life, liberty, or property without due process of law...

The Third Amendment of the Constitution states: "The right of the people to be secure in their persons, papers, and effects against unreasonable searches and seizures, shall not be violated..."

The Declaration of Independence upon which this Nation is founded, holds "that all men are created equal, that they are endowed by their creator with certain inalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness- that to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed, that wherever any form of government (including local government) becomes destructive of the ends, it

is the right of the people to alter.. it... in such form as to them seem likely to effect their safety and happiness."

INTRODUCTION

The petitioner is appealing to the U.S. Supreme Court for due process and for an opportunity to present factual evidence and arguments before an objective and neutral judicial body to hear her side of a case regarding protracted and systematic invasion of her personal and private property rights by the City and County of San Francisco, California. The invasion is deceptive in nature. It is carried out under the guise of local and state redevelopment and building code enforcement law so as to not reveal its demonstrated racial objective; namely the objective of dispossessing black residents in the Western Addition area of their property and business assets.

Wherever the petitioner has sought to appeal this invasion through using her legal right to due process, her right to due process by law has been denied. The California Superior Court, City and County of San Francisco, violated the petitioner's due process by accepting without hearing, debate, or evidence a motion by the City and County of San Francisco to grant the petitioner nothing on her Petition for Review. This was followed by a refusal to hear by the California Supreme Court. These denials of due process at the Superior Court and State Supreme Court levels are only the culmination of a series of denials which began at the local level with appeals through administrative avenues. At none of these levels- from administrative to judicial, from local to state- has the petitioner been able to obtain due process. At none of these levels has she been able to present factual evidence on her side of the case although this evidence involves flagrant abuse of personal and private property rights protected by the Constitution, Amendments V and IV, XIV, and by the Declaration of Independence, Second Paragraph, and although the petitioner has followed in good faith all available avenues for due process, prescribed by the law.

At every step of her appeal the petitioner has believed and trusted the prescribed administrative and judicial system for due process. Yet at each of these steps her right to due process has been denied, largely on technical or procedural grounds, prior to her having an opportunity to present factual evidence and arguments supporting her case- To be judged on the merits (FRC P 12).

Petitioner is therefore obligated to seek relief from the United States Supreme Court as an effort of last resort. Her experience with all avenues of due process below the Supreme Court is that: The local government and judicial machinery tolerates no opinions or evidence contrary to the rulings of a powerful local government, namely the City and County of San Francisco, particularly when these opinion or evidence are presented by an ordinary black resident seeking to fulfill her right to 'life, liberty, and pursuit of happiness' and to protect herself against 'deprivation of life, liberty and property' by due process.

STATEMENT OF FACTS

The Petitioner is appealing to the highest courts to provide her with the right to a *fair legal hearing* that has been pervasively denied her by the lower courts and the local government in San Francisco.

For close to ten years the Petitioner has been seeking administrative or legal redress of grievances involving denial to her of the basic property rights granted to all American citizens under the U.S. Constitution.

At every step of the way the Petitioner has believed in and trusted the judicial system by following all prescribed procedures for administrative and legal appeal. Yet at every step of the way her right and ability to present her side of the case has been categorically denied by what appears to be a *collusion between the City and County of San Francisco and the lower court system based in San Francisco.*
The Petitioner's experiences indicate that:

The local governmental and judicial machinery

tolerates no differing opinions or evidence to its rulings not to mention legitimate exercise of formal rights to appeal by ordinary citizens.

BACKGROUND FACTS

The Petitioner is a *black American citizen* who has sought to move from a 'second class' to a 'first class' standing of living by using her own initiative in economic activities related to income property and small business.

The Petitioner, with the support of her children, bought a number of older residential buildings and operated a couple of small retail outlets, including a grocery store and a printing shop, in Western Addition area of San Francisco.

Western Addition is a once predominantly black community that was the site of major redevelopment project activity from the fifties through the sixties. In proportionate terms, more black people lost their properties and businesses in Western Addition as a result of redevelopment than in any other major city of the country. With the passage of time it is now abundantly clear that the City and County used the enormous legal powers of eminent domain for a specific racial objective: namely, to rid a strategic location of the City, Western Addition, of its predominantly black and poor population by seizing property and business assets from black property owners and merchants[1].

When the Petitioner faced the prospect of losing some of her property in Western Addition through code enforcement activity by the Department of Building Inspection, she sought to exercise her right to differ and appeal, as established by local law.

Through long painful experiences it has become

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[1] See South Bayshore Issues Report, Department of City Planning, City and County of San Francisco (November, 1987) for extent to which redevelopment of Western Addition has led to economic devastation of San Francisco's black community at a citywide scale.

apparent to the Petitioner that the City and County of San Francisco is a powerful entity with close ties to judicial system. Together the regulatory system of the City and County and the local based judicial system tolerate no difference of opinion to their findings and rulings, especially when their findings and rulings deal with private property and business holdings at strategic market locations in San Francisco.

There is little room in the local governmental and judicial structure for the voice of the ordinary citizen with meager financial resources and limited connections to political influence and expert professional opinion.

The next section describes the sequence of events throughout which the Petitioner was denied the right to disagree and the right to full and fair hearing in both administrative and legal forums of appeal.

PERTINENT SPECIFIC FACTS

1.) The Petitioner did not have the opportunity for input or to question local building inspection assessments of her properties even though such assessments were necessary for complying with the local building code.

When the Petitioner was having construction work done to improve her properties, she made every effort to comply with the codes applied by the building inspector, but she was never given a voice in the inspection process. Hence she could never establish through the building inspector a consistent set of codes to comply with. The only point of consistency in the entire inspection process was the subjective opinion and whim of the inspector. The opinion of the property owner, or her contractor or her outside expert building inspector was considered non-existent, given no standing relative to the expert opinion of the building inspector even though many opinions of the inspector were subjective and inconsistent with the code and even though local law and policy gives property owners the right to have input.

2.) The Petitioner had no means of appeal to a neutral third

party when the City and County was remiss in carrying out its obligations under the court-sanctioned Stipulated Judgment.

In order to achieve consistency in the building inspection process and have thereby a more predictable investment environment, the Petitioner agreed to a fixed construction and inspection schedule with the City and County under a Stipulated Judgment that was sanctioned by the courts. The Stipulated Judgment is a legal instrument that is binding on all parties. Yet the City and County did not honor its obligations under this Judgment, while forcing the Petitioner to do work that exceeded the obligations required of the Receiver under the Judgment. The local courts then used alleged infractions of the Judgment by the Petitioner or to place the Petitioner's properties into receivership at the recommendation of the City and County of San Francisco. During this process, the Petitioner had no recourse for appeal or due process, even though *the court was supposed to provide such recourse as objective and neutral third party*. Although the court was by law supposed to assure that the receiver work as a neutral party between the City and County of San Francisco and the Petitioner, it did nothing to maintain this neutrality. The receiver worked at the behest of the City and County building inspectors, who allowed the receiver significantly greater variance in working under the local building code than was ever allowed the Petitioner. When the Petitioner sought to present facts and arguments on the preferential treatment given the receiver, neither the courts, nor the City and County gave her a voice or forum.

3.) The Petitioner did not receive adequate provisions for appeal or due process in any of the administrative and legal forums leading to, during, and subsequent to the Stipulated Judgment.

In those cases where the Petitioner was able to schedule an appeal hearing, hearings were set up and carried out in a way where she was unable to counter the 'expert' professional

opinion of her case and unable to present her side of her case. Hearings before the Board of Permit Appeal were carried out in a manner whereby the format and agenda for the hearing were stacked in favor of the Department of Building Inspection and the City Attorney's Office while depriving the petitioner of adequate time and means to present factual evidence and arguments supporting her side of the case. (City Attorney representatives was present)

4.) The Petitioner did not receive the 'right to have a lawyer present' at any of the administrative or legal forums for appeal leading to, during, and subsequent to the Stipulated Judgment.

Whether the Petitioner had a lawyer or was representing herself at an administrative or legal forum for appeal, she was never given adequate time to prepare her argument for formal presentation. To the contrary, the City Attorney's Office, with apparent tacit acquiescence by the court, tended to play on her legal ignorance and her lack of legal resources by manipulating the procedural and scheduling provisions of the law to deny her due process. It has become evident that the City and County of San Francisco is seeking to undo the Petitioner's case on technical procedural grounds because it does not want a legal hearing that could open up the racial nature of its redevelopment activities in Western Addition whereby it destroyed the properties, economies, and lives of thousands of black residents.

5.) At no time in the entire process of appeal over the past 10 years or so has the Petitioner ever been adequate informed of all her rights and responsibilities as an owner of income property.

This is an area of major need in legal service that primarily applies to black property owners.

Most black people are not adequately informed of their full rights as native American citizens. Most are still operating under a legacy whereby racial segregation was legitimized by

custom if not by law, and there was little they could do to change these circumstances. This is the underlying reason why the vast majority of black property and business owners, in Western Addition, hundreds upon hundreds, lost their property and business assets as a result of redevelopment, code enforcement, and eminent domain carried out by agencies of the City and County of San Francisco. Essentially city agencies used the ignorance among black residents born of their racial isolation from the mainstream economy to seize their properties and businesses. Even though these affected black residents may be personally, and perhaps legally responsible for the loss of their own properties and assets this in no way excuses the City and County of San Francisco from using the exceptional legal and de facto institutional power of eminent domain to seize the property and economic assets of a defenseless ignorant population[2].

Many black property owners, even owners of income property, have modest income and savings. Owning property is simply an avenue by which they are seeking to enter the mainstream economy. Yet most legal services and most areas of law pertaining to building construction and management assume that most property owners are wealthy and can afford whatever legal advice and services are needed to deal with issues of appeal and due process concerning their property. As a result, the law gets applied in a adversarial manner against property owners, especially in a pro-tenant and anti-landlord city like San Francisco. This makes it doubly difficult for black property owners such as the Petitioner. They are forced to contest regulatory findings by the governmental establishment in a decidedly anti-property environment without ever having access to the legal information, advice, and resources they need to effectively carry out such a contest and without informed support from a community of peers.

2

See The Unfinished Agenda, Human Rights Commission, City and County of San Francisco.

Essentially city agencies used the ignorance among black resident born of their racial isolation from the mainstream economy. Even though the affected black residents may be personally, and perhaps legally, responsible for their own properties and assets, this in no way excuses the city and county of San Francisco from using the exceptional legal power of eminent domain to seize the property and assets of a defenseless ignorant population.

REASONS FOR GRANTING WRIT

THE SUPREME COURT OF THE STATE OF CALIFORNIA VIOLATED PETITIONER'S RIGHT TO BOTH PROCEDURAL AND SUBSTANTIVE DUE PROCESS OF LAW WHEN IT LET STAND A SUPERIOR COURT ORDER REFUSING TO HEAR THE PETITIONER'S PETITION FOR REVIEW.

The refusal to hear by the State Supreme Court was provided without comment. This follows a systematic pattern of denial of due process to the Petitioner. Up to the point when the State Supreme Court and the State Superior Court have refused to hear the Petition, the Petitioner's efforts to obtain due process has been denied on technical and procedural grounds[3]. In no forum has she ever been able to present the substantive factual information supporting her side of the case.

During the course of the Stipulated Judgment, the City and County with the tacit compliance of the courts worked to essentially usurp owners of the affected property and place it in the hands of the receiver. This was done in a manner of blatant disregard for the provisions of the Judgment which were legally binding on all parties. The Judgment was used to impose unreasonable time and demands on the Petitioner while releasing the City and County and the receiver of their legal requirements and obligations.

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[3] A Givens "Q"

The consistent bias in judicial opinion and ruling in favor of the City and County suggests collusion between the City Attorney's Office and the lower courts based in the City and County of San Francisco. It suggests that the City and County is using all of its powers- *formal and informal, direct and indirect*- to dismiss the case of the petitioner because it is seeking to hide illegal acts of enormous ramification by the City and County, of which the case of the petitioner is only the tip of the iceberg. Underlying the petitioner's case on denial of due process is the fact that the fact that the petitioner is the only black resident from Western Addition to use all of her personal and financial resources over an extended period and to exhaust every available administrative and legal means to protest and counter the process by which the city and county have illegally usurped the property and business rights of thousands of black property and business owners from the Western Addition area of San Francisco.

CONCLUSION

For the reasons expressed above, a writ of certiorari should issue to review the judgment of the California Supreme Court.

Dated: June 7th, 1998

Respectfully submitted,

Alice R. Lane

ALICE R. LANE, In Pro Per
Conservator

APPENDIX A

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO

NO. 915085
ORDER RE: FINAL RECEIVER'S CERTIFICATE and TERMINATION OF RECEIVERSHIP

Filed: January 24, 1996, ALAN CARLSON, Clerk

CITY AND COUNTY OF SAN FRANCISCO, Plaintiffs,
vs.
ALICE LANE, et al., Defendants.

Pursuant to the hearing on the above matter on January 11, 1996, attended by Deputy City Attorney Holly Thier, Receiver Debra Haber, her attorney Lanny K. Fielder, and defendants' attorney Matthew Cohen, and after considering the pleadings and arguments by counsel, the following is ordered:

1. All costs under $100,000 are approved.

2. Receiver's fees and attorney's fees are approved, however the total fees and costs will not exceed $114,000.

(Detailed accounting attached as Exhibit D in OPPOSITION BY RECEIVER)

3. The Receiver is granted permission to issue a final Receiver's Certificate (copy attached as Exhibit F in OPPOSITION BY RECEIVER) in the amount of $14,000. plus any amounts incurred for its issuance, to pay for final costs, attorney's fees, receiver's fees, and loan fees and interest to January 11, 1996.

4. Upon issuance of the final Receiver's Certificate and payment of all the receiver's obligations, including any outstanding Certificates, and any amounts incurred in the issuing of this third Certificate, the Receivership is terminated and her
bond is exonerated.

5. In the alternative to numbers 4 and 5 above, defendants agree to pay directly to receiver the amount to terminate the receivership; this amount must be paid by January 19, 1996, or receiver will issue her certificate as noted above.

6. Upon payment of all the receiver's obligations, including any outstanding Certificates, the Receivership is terminated and her bond is exonerated.

SO ORDERED:
Dated: January 11, 1996
(Signed) The Honorable William Cahill
Judge of the Superior Court

APPENDIX B

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

FILED: DEC 12, 1997
Court of Appeal - First App. Dist
RON O. BARROW, CLERK
By - DEPUTY

A073789
(San Francisco County Super. Ct. No. 915085)

CITY AND COUNTY OF SAN FRANCISCO,
Plaintiff and Respondent,
v.

ALICE R. LANE,
Defendant and Appellant.

On March 13, 1996, appellant Alice R. Lane filed a notice with this court purporting to appeal from a January 24, 1996, order terminating a receivership. We ordered appellant's original opening brief stricken, due to her failure to comply with California Rules of Court, rule 13 (Rule 13).[1] We specified several problems with the

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1

Rule 13 provides: "Every appellant shall file an opening brief, except that an appellant may join in a brief or may adopt by reference any brief in the same or companion cases. The opening brief shall contain a statement of the case, setting forth concisely, but as fully as necessary for a proper consideration of the case, in the order appellant may prefer, the nature of

brief,[2] gave appellant leave to file a new opening brief, with respondent to file a new.., response, and appellant to file a reply. Appellant filed a renewed brief on October 1, 1997. Respondent filed a response on November 6, 1997. We granted appellant's request to file a late reply, which was filed on December 8, 1997.

Our review of appellant's second opening brief reveals several flaws, which we discuss in detail below. We conclude that her appeal should be dismissed for having filed a second defective brief, and for raising claims which are untimely or not subject to appeal.

FACTS[3]

On January 22, 1990, the City and County of San Francisco (the city) filed a complaint against Alice Lane. The complaint charged her with maintaining a public nuisance on her property, located at 1674 Golden Gate Avenue (the property). Exhibit B to the complaint set forth the conditions constituting the public nuisance and listed 34 violations, including those that "may be concealed and which become evident when work is begun." The enumerated violations ranged from an

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the action or proceeding and the relief sought, a summary of the material facts, and the judgment or ruling of the superior court. The statement shall be accurate and confined to matters in the record on appeal. (1) The opening brief shall contain either a statement that the appeal is from a judgment that finally disposes of all issues between the parties or a statement explaining why the order or nonfinal judgment is appealable."

2

We noted appellant's "I) Failure to set forth concisely the nature of the action or proceeding; 2) Failure to set forth concisely the relief sought; 3) Failure to set forth concisely a summary of the material facts; 4) Failure to set forth with particularity the judgment or order of the superior court which is the subject of the appeal; and 5) Failure to include a statement of appealability of the order(s) or judgment being appealed." (Italics in original.)

3

With minor adjustments, we adopt respondent's statement of facts, which is fully supported by the record,

accumulation of debris to a lack of heat in all habitable areas.

On August 20, 199 1, the city and Lane executed a document entitled "Stipulated Injunction and Interlocutory Judgment" in which Lane stipulated that the 34 violations enumerated in the complaint rendered the property a public nuisance. The stipulated judgment provided: "The court expressly reserves jurisdiction to take such further action
including the rendition of the Final Judgment herein as may be necessary or appropriate to carry into effect the provisions hereof."

As part of the stipulated judgment, Lane obligated herself to correcting the violations within specific times. She was to submit a permit application to the Bureau of Building Inspection within 60 days of the order and was to pick up the permits within 15 days after receiving notice of their approval. Work to abate the code violations was to start within 30 days and finish within 180 days of notice of the permit approvals.

On March 26, 1992, the city filed an application for order to show cause (OSC) re contempt due to Lane's failure to comply with the terms of the stipulated judgment. A hearing was held on April 15, 1992, in which Lane was ordered to submit to the city attorney, by May 8, 1992, a schedule for completing the work on the property. The OSC was continued to May 13, 1992. When Lane failed to appear on May 13, the court issued a warrant of attachment for Lane, and stayed the order until May 20, 1992.

On May 20, 1992, Lane's brother appeared in her stead and provided the court with a work plan and schedule for completing the work. The court ordered Lane to comply with the schedule, recalled the warrant and continued the matter to August 19, 1992 The order required Lane to be present at the next hearing, and also ordered her to schedule a property inspection with the Bureau of

Building Inspection.
Thereafter the hearing on the OSC was continued 10 times to November 4, 1992; December 9, 1992; January 20, 1993; February 10, 1993; March 10, 1993; April 7, 1993; May 5, 1993; May 19, 1993; June 2, 1993; and July 7, 1993
At the hearing held on June 2, 1993, appellant was ordered to make the premises accessible for inspection by June 14, 1993, and to call the city inspector by June 11, 1993. The matter was continued to July 7, 1993, for an evidentiary hearing on appellant's compliance with the previously agreed upon responsibility schedule. On July 7, 1993, the court held an evidentiary hearing regarding the OSC and made several findings: 1) Lane -knew and understood the contents of the Order issued by this court at the June 2,1993
hearing;" 2) she "had the present ability to comply with that Order, but failed to comply with any of its terms;" 3) she "knowingly and willfully failed, refused and neglected to obey the terms and provisions of the June 2, 1993 Order, in that she failed to complete the rough plumbing and rough electrical work as set forth in the Time and Responsibility . Schedule 4) the court took judicial notice of previous findings and orders and found "no reasonable excuse for failure to have the inspections as ordered;" and 5) Lane's conduct, by reason of her failure to comply with the order, constituted contempt of court. After finding Lane in contempt, the court sentenced her to two days in county jail with the sentence suspended on the condition that she work one day in the sheriffs work' alternative program. In addition, the court directed the attorney for the city to file a motion for the appointment of a receiver. It continued the matter of the receivership to August 18, 1993, and the contempt matter to September 8, 1993. Lane appeared on September 8. The attorney appearing on behalf of the city informed the court that it had published a request for

proposal, was accepting applications from potential receivers and would soon be filing, a motion for appointment of a receiver.
On April 6, 1994, the city filed a motion for appointment of a receiver. An order was filed on June 27, 1994, stating that 1) Lane had failed to comply with the stipulated judgment; 2) code violations would remain unless a receiver took possession of the property and corrected the violations; 3) the court had the power to appoint a receiver; and 4) the appointment of a receiver was necessary. Accordingly, a receiver was appointed. Lane did not appeal from the court order appointing a receiver.

The court stayed the appointment of the receiver until November 30, 1994, to give Lane the opportunity to obtain a certificate of final completion and occupancy from the Bureau of Building Inspection. It further ordered that "in the event that Owner fails to complete the work and obtain the Certificate of Final Completion and Occupancy as ordered for [the property] the stay on the appointment of the receiver will be vacated effective September 30, 1994 and the receiver will have the power to assume the authority and take possession on September 30, 1994." The matter was continued to July 29, 1994, for designation of the receiver. On that date, the court designated Debra Haber as the property's receiver. On October 20, 1994, it lifted its stay on the receiver's appointment and ordered her to undertake a study of the estimated cost of the repairs needed to abate the violations listed in the stipulated judgment.

On March 14, 1995, the receiver filed an abatement plan with the court in which she specified the work needed to correct the violations and the costs for doing the work. After hearing a on March 16, 1995, the court approved the plan and authorized the receiver to obtain a loan of up to $100,000 to complete the work. Lane was given one week in which to file any objections.

PUBLISHER'S NOTE:

Page number(s) 19 could not be located.

notice, namely the January 24, 1996, order terminating the receivership, we will address these other matters as well.

Inadequate Opening Brief

Appellant's renewed opening brief suffers from the same infirmities as did her original brief. It once again presents the case in a rambling, disorganized manner, restates the entire history of her case, and appears to appeal from virtually every trial court ruling made therein. As such, she has again failed to set forth concisely the nature of the action or proceeding, the relief sought, a summary of material facts, and the particular judgment or order which is the subject of the appeal. She has also again failed to include a statement of appealability. Each of these deficiencies render appellant's brief in violation of those same Rule 13 requirements which resulted in our striking of her First brief pursuant to rule 18.[4]

"[W]hile rule 18 does contemplate that an appeal not be dismissed because a party has filed one brief which fails to comply with the rules, nothing in the rules precludes dismissal for failure to file a brief substantially in compliance with the rules after the appellate court has made an order striking one nonconforming brief with leave to file a "new brief... When a new brief substantially fails to comply with the rules, as in the present case, the appellate court has both statutory and inherent power to dismiss the appeal." (*Berger v. Godden* (1985) 163 Cal.App.3d 1113, 1118, fn. omitted.) Thus we may, and do, dismiss the appeal for the

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[4] Rule 18 provides: "When a brief fails to comply with the requirements of these rules the reviewing court, on application of any party or on its own motion, and with or without notice as it may determine, may: (1) order the brief to be returned to counsel for correction by interlineation, cancellation, revision or replacement in whole or in part, and to be redeposited with the clerk within a time specified in the order; (2) order the brief stricken from the files, with leave to file a new brief within a specified time; or (3) disregard defects and consider the brief as if it were properly prepared.

inadequate contents of appellant's new opening brief. We also, however, dismiss the appeal for the more substantive reasons of untimeliness and non-appealability discussed below.

Untimely Appeals

A notice of appeal must be filed "on or before the earliest of the following dates: (1) 60 days after the date of mailing by the clerk of the court of a document entitled 'notice of entry' of judgment; (2) 60 days after the date of service of a document entitled 'notice of entry' of judgment ... or (3) 180 days after the date of entry of the judgment." (Cal. Rules of Court, rule 2(a).) Because the time for filing an appeal is jurisdictional, we have no discretion to hear an untimely appeal.

Bearing in mind the March 13, 1996, filing date of appellant's notice of appeal, we conclude that the following orders, from which appellant appears to seek relief in this court, are no longer subject to appeal and are therefore dismissed as untimely: 1) the original judgment, filed August 20, 1991;[5] 2) the order appointing a receiver, filed June 27, 1994 (appropriateness of appointment must be raised and decided in appeal from the order of appointment, the issue "cannot be resuscitated when a receiver resigns and is replaced." (*City and County of San Francisco v. Shers* (1995) 38 Cal.App.4th 1831, 1839); 3) the order lifting the stay of receivership, filed October 20, 1994 (ibid.); and 4) the orders in 1994 and 1995 approving the receiver's certificates.

Non-Appealable Contempt Order

Appellant complains of the order finding her in contempt, filed July 7, 1993. Were this an appealable

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For purposes of the analysis, we accept appellant's claim that this judgment, though labeled by the parties as "interlocutory" was in fact a final judgment when entered.

order, it would obviously be untimely. It is not, however, subject to direct appeal, but may be reviewed only by way of petition for extraordinary writ. (In re Buckley (1973) 10 Cal.3d 237, 240.) Thus, to the extent this appeal is from the contempt order, we dismiss it.

Order Terminating Receivership Filed January 26, 1996

Finally, we address the single matter which might, if adequately presented, have been the proper subject of an appeal. Appellant's notice of appeal from the January 26, 1996, order terminating the receiver was timely, and did bring to our notice an appealable order. Unfortunately, appellant has given us no factual basis to support her claim of error in terminating the receivership; she states only that the trial court abused its discretion in doing so. Factually, each of her complaints concern actions taken by the receiver and approved by the court well before the time came for discharge of the receiver. As we have noted above, these complaints, which appellant has attempted to include in the broad sweep of her brief, cannot command our attention, as they have not been presented in a timely manner or are not subject to direct appeal. Nor does appellant provide us with any argument or legal authority for the requested relief. As appellant, the burden of presenting these matters rests on her. We may deem waived any point supported only by conclusory argument without citation to legal authority. *(People v. Stanley* (1995) 10 Cal.4th 764, 793; *Kim v. Sumitomo Bank* (1993) 17 Cal.App.4th 974, 979.) Because the opening brief is so fundamentally defective in addressing the appeal from the termination of the receiver, we decline to decide the issue, and dismiss the appeal as to this matter as well.

DISPOSITION

The appeal is dismissed in its entirety. Respondent to recover costs on appeal.

Walker, J.

We concur.
Phelan, P. J.
Corrigan, J.

APPENDIX C

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION 3

FILED: JAN - 9, 1998
Court of Appeal - First App. Dist A073789
San Francisco County Super. Ct. No. 915085
By RON D. BARROW, CLERK

CITY AND COUNTY OF SAN FRANCISCO
Plaintiff and Respondent,
V.
ALICE R. LANE,
Defendant and Appellant.

BY THE COURT:
The petition for reconsideration treated as a petition for rehearing is denied.

Date: JAN - 9 1998 11
(PHELAN) P. J.

oruu

APPENDIX D

First Appellate District, Division Three, No. A073789
S067441
IN THE SUPREME COURT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO, Respondent
V.
ALICE R. LANE, As Conservator, Etc., Appellant

Filed: March 11, 1998
Supreme Court
Robert Wandruff, Clerk

Appellant's petition for review DENIED.

Chief Justice
SUPREME COURT
FILED: MAR 11, 1998